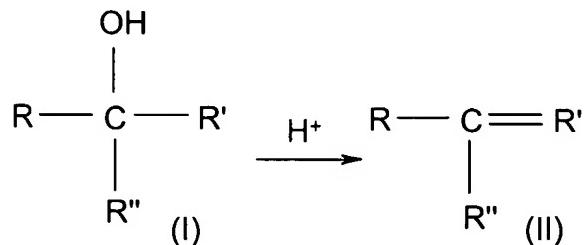


REMARKS

The recent Office Action indicated that claims 27-59 were unrelated to the original claims 1-24. More specifically, the Office Action noted that the only claim directed to a “kit” (claim 24) required a “breath collecting device”, which is no longer required. Further, the Office Action also indicated that the requirement of a “source of urea” in new claims 27-59 was not previously claimed. For these reasons, the Office Action indicated that claims 27-59 were directed to a non-elected invention. Although Applicants respectfully disagree, claims 27-59 have nevertheless been withdrawn and new claims 60-82 have been added that are directed to a kit that contains a visual indicating agent and a breath collecting device. Applicants specifically request reinstatement of the withdrawn claims upon the allowance of any of the pending claims.

Currently, claims 60-82, including independent claim 60, are pending in the present application. Independent claim 60, for instance, is directed to a kit for detecting *Helicobacter pylori*. The kit comprises a breath testing device comprising a visual indicating agent that is color sensitive to the ammonia and a breath collecting device. The visual indicating agent has the following general formula (I) or (II):



R is $(\text{CH}_3)_2\text{NC}_6\text{H}_5$, $(\text{NH}_2)\text{C}_6\text{H}_5$, or C_6H_5 ;

R' is $(\text{CH}_3)_2\text{NC}_6\text{H}_5$, $(\text{NH}_2)\text{C}_6\text{H}_5$, $\text{C}_{10}\text{H}_6(\text{OH})$, or $(\text{NaCO}_2)\text{C}_{10}\text{H}_5(\text{OH})$; and

R" is H, $(\text{CH}_3)_2\text{NC}_6\text{H}_5$, $(\text{NH}_2)\text{C}_6\text{H}_5$, $\text{C}_{10}\text{H}_6\text{O}$, or $(\text{NaCO}_2)\text{C}_{10}\text{H}_5\text{O}$.

In the Office Action, previous independent claim 24 (directed to a "kit") was rejected under 35 U.S.C. §103(a) as being obvious over WO 97/30351 to Baldwin et al. in view of U.S. Patent No. 5,420,016 to Boguslaski et al. Baldwin et al. is directed to an apparatus for detecting ammonia in a user's breath. The apparatus includes a tube with a mouthpiece and a means for collecting the ammonia. The collected ammonia is then contacted with an indicator system. Various indicator systems are disclosed including electronic detectors, reaction with metal ions to form complexes, acid/base indicators including 4-nitrophenol, bromothymol blue and bromocresel purple, and multistage reactions such as a pyridine-pyrazolone or indophenol reactions. Nevertheless, as acknowledged by the Examiner, Baldwin et al. fails to disclose one or more aspects of the claimed kit. For instance, Baldwin et al. fails to disclose a visual indicating agent having the formula set forth in independent claim 60.

Nevertheless, Boguslaski et al. was combined with Baldwin, et al. in the Office Action in an attempt to render obvious previous independent claim 24. Boguslaski et al. is directed to a method for determining the presence of *H. pylori* in a biological specimen. Similar to Baldwin, et al., however, Boguslaski et al. also fails to disclose certain limitations of independent claim 60, such as a visual indicating agent having the claimed formula. Thus, for at least the reasons noted above, Applicants respectfully submit that independent claim 60 patentably define over Baldwin et al. and Boguslaski et al.

Applicants respectfully submit that the present application is in complete condition for allowance and favorable action, therefore, is respectfully requested.

Application No. 10/687,327
Amendment Dated December. 7, 2006
Reply to Office Action of November 7, 2006

Examiner Portner is invited and encouraged to telephone the undersigned, however,
should any issues remain after consideration of this response.

Respectfully requested,

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